



April 29, 1992

Steve C. Mason, Esq.
Assistant Regional Counsel
United States Environmental Protection Agency
3rd Floor
111 West Jackson Boulevard
Chicago, Illinois 60604

Re: American Chemical Service ("ACS")
Administrative Order by Consent No. VW-88-C-113

Dear Mr. Mason:

The ACS RI/FS Steering Committee has completed its review of the Ecological Assessment ("EA") prepared by U.S. EPA. Specific technical comments will be submitted to you under separate cover by Warzyn Engineering for purposes of ensuring a complete administrative record. The Steering Committee takes the position that the EA it submitted in January 1991 and revised as per EPA comments was complete and consistent with the National Contingency Plan. Thus, it was unnecessary for U.S. EPA to expend costs preparing its own EA and inappropriate to base the EA on overly conservative assumptions. A review of the history of the EA demonstrates the background for this position.

On January 31, 1991, Warzyn submitted the first draft Baseline Risk Assessment and Ecological Assessment. The Ecological Assessment (Section 7.2) was patterned after several Ecological Assessments which had recently been approved by U.S. EPA Region V. Robert Swale, U.S. EPA, sent his review comments on the first draft RI Report on April 24, 1991. The comments to the EA required major changes although no new EPA guidance had yet been promulgated. In order to fully understand these requirements, the ACS Technical Committee met with U.S. EPA, BTAG, and U.S. Fish and Wildlife on May 16, 1991.

Based on the May 16, 1991 meeting, Warzyn prepared a list of the assumptions it planned on using for the next draft EA. Warzyn sent its assumptions to Robert Swale on June 26,

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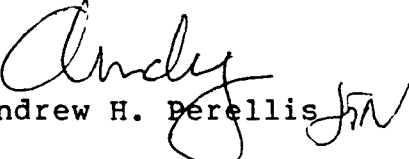
1991. On June 27, 1991, Warzyn, U.S. EPA, and U.S. Fish and Wildlife participated in a conference call to discuss Warzyn's list of assumptions. After making requested changes to the assumptions, Warzyn wrote to Robert Swale on June 28, 1991 to memorialize the approval of Warzyn's assumptions for the EA. Mr. Swale wrote back on July 1, 1991 memorializing U.S. EPA's understanding of the assumptions, and stating that he reserved the right to further re-evaluate the adequacy of the assumptions.

Based on this correspondence, Warzyn prepared a second draft EA and submitted it to U.S. EPA. On August 9, 1991, Warzyn received a memorandum from BTAG which contained 25 comments on the second draft Ecological Assessment. Warzyn submitted the third draft EA on October 8, 1991. Rather than preparing comments to the third EA, U.S. EPA chose to submit its own EA on April 15, 1992. U.S. EPA's EA is based on very conservative and often inappropriate assumptions which have no basis in the consent order, work plan, or any applicable U.S. EPA guidance.

At this late date, we assume U.S. EPA 1) is unwilling to revise its EA; and 2) will use its EA as part of the RI. If there is flexibility as to either of these two points, perhaps a meeting is appropriate. The ACS Committee does not want to be accused of delaying progress towards the RD/RA. The Committee, however, reserves all its rights to invoke dispute resolution should the EA, as written by U.S. EPA, be used for any purpose, including but not limited to remedy selection.

If you have any questions regarding the above, please do not hesitate to contact me.

Very truly yours,


Andrew H. Berellis

AHP:dlc

cc: ACS Technical Subcommittee Members
Joseph D. Adams
Jennifer T. Nijman